



Trusts Act 2019: Key actions for trustees and settlors

What you need to know

- The Trusts Act codifies the obligations of trustees and the rights of beneficiaries with the aim of making trustees more accountable and trust law more understandable.
- Trustees and settlors need to be familiar with what this means for their trust.
- Trustees and settlors should also subject their trust to a Warrant of Fitness check from time to time to make sure it is still fit for purpose.

Key steps

1. Obtain legal advice as to the fundamentals of the Act, including:

- The default and mandatory duties of trustees
- The presumption that beneficiaries have the right to be informed about basics of the trust
- The presumption that beneficiaries have the right to request and receive other trust information
- New limits on the right of trustees to be indemnified
- Possible extension of the life of the trust

[Click here](#) for our article summarising the key features of the Trusts Act

2. Identify any possible updates to the trust deed in light of the Act, such as:

- Changing or reducing the beneficiaries
- Extending the trust period
- Changing trustees
- Changing trustees' powers
- Changing settlor powers
- Changing trustee exemption and indemnity provisions

3. Beneficiary information disclosure

Trustees need to periodically consider beneficiary information disclosure, including:

- When or if to make disclosure?
- To which beneficiaries should disclosure be made?
- What information should be disclosed to which beneficiary?

4. Trust records:

- Who is to hold the trust records?
- Are all necessary resolutions passed?
- Are assets and liabilities recorded correctly?
- Are annual accounts and trust financial statements (if required) completed?
- Tax returns and associated information disclosures filed? ([click here for our article on tax disclosures for trusts](#))

- Have loans and gifts been documented?
- Are trust bank accounts open and separate?
- Does the trust have an IRD number and does it need a GST number?
- Obtain advice on how to remedy any identified deficiencies

5. Warrant of Fitness – is the trust still fit for purpose?

- Does the trust need to change or be wound up, in light of:
- Changed circumstances of beneficiaries?
- Changing economic conditions and value of the trust property?

Get in touch

For advice on reviewing your trust, forming an action plan and implementing what has been agreed, please get in touch with our experts.

Contacts



Barney Cumberland, Partner

P: +64 9 977 5155 M: 021 497 462

E: barney.cumberland@simpsongrierson.com



Hugh Lindo, Partner

P: +64 3 968 4010 M: 027 711 7171

E: hugh.lindo@simpsongrierson.com



Joanna Lim, Special Counsel

P: +64 3 968 4017 M: 021 359 407

E: joanna.lim@simpsongrierson.com



Nicholas Bland, Senior Associate

P: +64 9 977 5313 M: 021 241 4504

E: nicholas.bland@simpsongrierson.com